

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Case No. 17-cr-0290 (WMW/BRT)

Plaintiff,

ORDER

v.

Evan Kasadine McMillan,

Defendant.

This matter is before the Court on Defendant Evan Kasadine McMillan's motion for an extension of the deadline to file a notice of appeal. (Dkt. 87.) On April 30, 2021, this Court denied McMillan's motion for compassionate release from custody.

"In a criminal case, a defendant's notice of appeal must be filed in the district court within 14 days after . . . entry of either the judgment or the order being appealed." Fed. R. App. P. 4(b)(1)(A)(i). As such, McMillan's deadline to file a notice of appeal of this Court's April 30, 2021 Order is May 14, 2021. A district court may extend the time to file a notice of appeal "for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b)" if the district court makes "a finding of excusable neglect or good cause." Fed. R. App. P. 4(b)(4).

McMillan is serving a sentence in the custody of the Federal Bureau of Prisons (BOP) at the Federal Correctional Institution in Terre Haute, Indiana (FCI Terre Haute). McMillan's counsel contends that, in light of the ongoing COVID-19 pandemic, "[d]irect communication with Mr. McMillan has been difficult given the COVID-19 mitigation

techniques implemented by the BOP” and counsel has “no ability to visit, call or email Mr. McMillan directly, and mail service at FCI Terre Haute has been very slow.” Consequently, McMillan seeks the full 30-day extension permitted under Rule 4(b)(4) of the Federal Rules of Appellate Procedure. On this record, the Court concludes that McMillan has demonstrated good cause for a 30-day extension of time to file a notice of appeal in this case.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. Defendant Evan Kasadine McMillan’s motion for an extension of the deadline to file a notice of appeal, (Dkt. 87), is **GRANTED**.

2. McMillan may file a notice of appeal no later than June 14, 2021.¹ *See* Fed. R. App. P. 4(b)(4).

Dated: May 5, 2021

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge

¹ Thirty days from May 14, 2021, is Sunday, June 13, 2021. Pursuant to Fed. R. App. P. 26(a)(1)(C), the time period “continues to run until the end of the next day that is not a . . . Sunday,” which here is Monday, June 14, 2021.